



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2147

FAX (603) 271-6588

LETTER OF DEFICIENCY
WET #SC2003-0013



August 28, 2003

William McClellan
14 Rocks Road
Seabrook, New Hampshire 03874

**RE: Wetlands Bureau Complaint File #2003-1788, McClellan, 177 Ash Swamp Road,
Newmarket Tax Map R4 / Lot 41.**

Dear Mr. McClellan

As you aware, on August 26, 2003, personnel from the Department of Environmental Services ("DES") conducted an inspection, along with Dan Vincent, Newmarket Building Inspector, of the above referenced property, more specifically referenced on the Town of Newmarket Tax Map R4 Lot 41 as (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A, the New Hampshire Wetlands Law.

DES personnel determined that dredging of approximately 43,560 sq. ft. of freshwater wetlands took place on the property for the purpose of enlarging an existing man-made pond without a permit from the DES Wetlands Bureau. DES also observed that a loader was located on the property within a jurisdictional wetland.

DES requests that you take the following action:

1. Immediately install siltation and erosion control devices to prevent sedimentation into jurisdictional areas.
2. Within 10 days of receipt of this letter, submit the following information for review and approval:
 - A. a preliminary plan showing the location of the wetland impacts and location of siltation and erosion controls;
 - B. a written explanation describing when this work occurred and circumstances surrounding the purpose for this work;
 - C. how you propose to stabilize the area;
 - D. how you propose to remove the loader from wetlands;
 - E. construction sequence and timetable for work; and
 - F. what your intentions are for the site.
4. Within 45 days of receipt of this letter, retain a qualified wetland consultant and/or qualified engineer to generate a surveyed plan which depicts existing conditions showing the topography of the property, and quantifies by field survey the current extent of disturbance in jurisdictional wetlands.

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5. Within 45 days of receipt of this letter, apply after-the-fact to retain approximately 43,560 sq. ft. of wetland impact to enlarge an existing man-made pond on your property and the temporary wetland impact to remove the loader from wetlands. Standard Dredge and Fill application is enclosed.
6. Retain a qualified wetland consultant and/or qualified engineer to supervise and execute the requests of this letter.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging or filling in and adjacent to wetlands or surface waters, an individual is required to obtain a permit from the Wetlands Bureau. If work is done without a permit from the Wetlands Bureau, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

David Price, Compliance Investigator
Wetlands Bureau
Department of Environmental Services
360 Corporate Drive, Suite 2
Portsmouth, NH 03801

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact me at (603) 433-6183.

Sincerely,

COPY

Dori Wiggin
Coastal Supervisor
DES Wetlands Bureau

DAW/dap

CERTIFIED MAIL #7003 1010 0003 3556 9982

cc: Rene Pelletier, Manager, Land Resources Management Program
Mark Harbaugh, DES Legal Unit
Dan Vincent, Newmarket Building Inspector
Newmarket Conservation Commission
Eric Saari, Jones & Beach Engineers, Inc.
Mark West, West Environmental